HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 456 of 2006 (MS)

1. M/S Lily Chemicals Pvt. Ltd, Lal Tapper, Dehradun
   Through its Director Sri Yogender Singh Chauhan
2. D.S. Chauhan s/s late Sri J.S. Chauhan r/o C-15
   2nd Floor, Amar Colony Market, Lajpat Nagar
   IV, New Delhi-24 ..... Petitioner

Versus

1. M/s Maharashtra Apex Corporation Ltd;
   10E/19, East Patel Nagar, New Delhi
2. District Judge, Dehradun ..... Respondents

Sri Alok Singh, Sr. Advocate assisted by D. Barthwal, Advocate for the petitioners
Standing Counsel for the respondent no. 2.

Dated 27.4.2006

Hon. Rajesh Tandon, J.

Heard the learned counsel for the parties.

By the present writ petition the petitioners have prayed for a writ of certiorari quashing the order dated 22.10.2005.

Briefly stated according to the case of the petitioners, they have purchased Diesel Generating Set under Hire Purchase Agreement with respondent no. 1 dated 16th July 1999. The petitioners have submitted that they were never served with any notice pertaining to termination of Hire Purchase Agreement. They have already filed application under section 34 of the Arbitration Act along with the objections under section 47 of the Code of Civil Procedure before the District Judge.

The grievance of the petitioners is that during pendency of the application under section 34 of the Arbitration Act, award

cannot be executed. The award has been passed for the total value of Rs. 17,52,870/- along with interest at the rate of 36% per annum.

Order has been passed by the District Judge on 27.10.2005 by which direction has been made that until and unless objection under section 47 is decided, the petitioner shall not sell the property.

In view of above, the District Judge is directed to dispose of the objection under section 47 C.P.C. within a period of one month after obtaining certified copy of the order. The petitioner is also directed not to sell the disputed property form part of hire purchase agreement.

Accordingly, the writ petition is disposed of. No order as to costs.

Rajesh Tandon, J.

Dated: 27.4.2006

*Dhyani